

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 3518 OF 2015
IN
FIRST APPEAL (ST). NO. 20352 OF 2015**

Reliance General Insurance Co. Ltd. ... Applicant.
V/s.
Smt. Anjiladevi Santosh Dube & ors. ... Respondents

Ms. Deepika Motagi i/b Res Juris for the applicant.

**CORAM : K. K. TATED, J.
DATED : 15/10/2015.**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 The learned Counsel for the applicant submits that respondent claimants filed Execution Application no. 235 of 2015 for recovery of awarded amount of Rs.18,80,000/- with interest. She submits that if entire amount is recovered by the respondents claimants in Execution Application, nothing will survive in the present proceeding. Hence, there is an urgency.

3 This application is filed by opposite party no.2 insurance company for stay of operation and implementation of Judgment and Award dated 18.11.2014 passed by M.A.C.T. Mumbai in Petition No. 194 of 2009 awarding sum of Rs.18,80,000/- with 7.5% interest by way of compensation to the respondents claimants.

4 In the present proceeding, in accident which occurred on 21.05.2008, claimant no.1 lost her husband, who was 31 years old. He was carrying on his business of electric fitting and Electric Contractor under the name and style as Lucky Electrical Works and he was earning Rs.25,000/- to Rs.30,000/- per month. Hence, the respondents claimants filed application for compensation under Section 166 of M.V. Act. The claimants placed on record the income tax return filed by the deceased for financial year 2004-05 to 2007-08 along with his bank statement, some certificates of deductions of tax at source to show that he was carrying on business with said firm.

5 Considering the evidence on record the Tribunal held that the respondents claimants are entitled to compensation of Rs.18,80,000/- with 7.5% interest from the date of application till the realisation.

6 The learned Counsel for the applicant submits that if stay is not granted, irreparable loss and injury will be caused to the applicant. She submits that applicant has good chance of success in the present matter. She submits that the Tribunal has awarded compensation on higher side without considering the relevant documents on record. Hence, in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned Award till the hearing and final disposal of the First Appeal.

7 The learned Counsel for the applicant makes a statement that she received instructions from the insurance company that they are ready and willing to deposit the entire awarded amount with interest

and costs in the Tribunal within four weeks from today. Statement is accepted.

8 Considering the submissions made by the learned Counsel for the applicant, averments made in Civil Application and as applicant is ready and willing to deposit the entire amount in the Tribunal within four weeks from today, I am satisfied that applicant has made out case for allowing present Civil Application.

9 In the present proceeding, the respondent claimant no.1 lost her husband on the date of accident. He was 31 years old. He was earning near about Rs.25,000/- to Rs.30,000/- per month. The claimant no.1 widow has to maintain her three minor children as well as father-in-law and mother-in-law.

10 Considering these facts, I am of the opinion that at present claimant no.1 and claimant nos. 5 and 6 are entitled to withdraw some amount without furnishing any security but subject to the outcome of the First Appeal.

11 Hence, the following order.

a) The operation and implementation of Award dated 18.11.2014 passed by the M.A.C.T. Mumbai in Petition No. 194 of 2009 is stayed till the hearing and final disposal of the First Appeal on condition that applicant insurance company to deposit the entire awarded amount with interest and cost, if any, in the Tribunal within four weeks from today, failing which Civil Application shall stands

dismissed without referring back to the court.

b) If amount is deposited within stipulated time as stated herein above, the respondents claimants are entitled the following amounts without furnishing any security.

- i) Claimant no.1 Smt. Anjiladevi Santosh Dube 25% with accrued interest.
- ii) Claimant no.5 Mr. Harishankar Zharkhande Dube 5% with accrued interest.
- iii) Claimant no.6 Mrs. Prema Harishankar Dube 5% with accrued interest.

c) The Tribunal is directed to invest the remaining amount in fixed deposit of any nationalised bank initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

d) Liberty granted to the respondent claimants to prefer appropriate application, if they so desire, for withdrawal of further amount and that application will be decided on its own merits.

e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)